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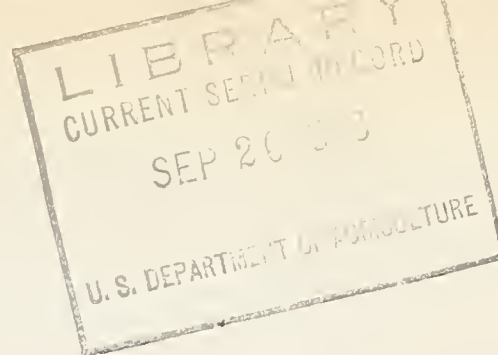
WAR FOOD ADMINISTRATION
Food Distribution Administration

CORRECTION NOTICE ON FDO-78 "PEANUTS"

In printing Food Distribution Order 78, there occurred two errors in Section 1460.29 as follows: Paragraph (b) Column 2, line 6.- the word "manufacturer" should read "manufacture," so that the sentence reads, "All quotas hereunder in any class of use, except the manufacture of roasted peanuts in the shell, shall be computed by weight on a shelled basis."

Column 3, paragraph (f), line 6.- the word "of" should read "or", so that the sentence reads, "Nothing in paragraphs (b) and (c) hereof, shall restrict the use or consumption of peanuts or peanut butter in the manufacture of any product set forth in Schedule A of paragraph (b) or Schedule B of paragraph (c) hereof, which is to be delivered to:

Please correct your printed copy accordingly.



WAR FOOD ADMINISTRATION

[FDO 78]

PART 1460—FATS AND OILS

CONSERVATION AND DISTRIBUTION OF PEANUTS AND PEANUT BUTTER

The fulfillment of requirements for the defense of the United States will result in a shortage in the supply of peanuts and peanut butter for defense, for private account and for export; and the following order is deemed necessary and appropriate in the public interest and to promote the national defense:

§ 1460.29 *Restrictions on the use and consumption of peanuts and peanut butter*—(a) *Definitions*. (1) "Person" means any individual, partnership, association, business trust, corporation, or any organization of persons, whether incorporated or not.

(2) "Peanuts" means peanuts which have been cleaned, shelled, or otherwise processed.

(3) "Calendar quarter" means a period of three consecutive calendar months beginning January 1, April 1, July 1, or October 1.

(4) "Quota" means, according to the context, the quantity of peanuts which a person is permitted to use or consume in any class of use set forth in Schedule "A" of paragraph (b) hereof, in any calendar quarter, or part thereof, pursuant to the provisions of paragraph (b) hereof, or the quantity of peanut butter which a person is permitted to use or consume in any class of use set forth in Schedule "B" of paragraph (c) hereof, in any calendar quarter, or part thereof, pursuant to the provisions of paragraph (c) hereof.

(5) "Director" means the Director of Food Distribution Administration, War Food Administration.

(b) *Restrictions on the use and consumption of peanuts*. Except as provided in paragraphs (d) (e), and (f) hereof, on or after October 1, 1943, no person shall, in any calendar quarter, use or consume peanuts in any class of use listed in Schedule A below, in excess of a quantity equal to the percentage specified in such Schedule A of his quarterly use or consumption of peanuts in such class of use during the corresponding calendar quarter of 1942. From the effective date of this order to October 1, 1943, no person shall use or consume peanuts in any class of use listed in Schedule A below, in excess of a quantity equal to one-third of the

percentage specified in such Schedule A of his quarterly use or consumption of peanuts in such class of use during the calendar quarter beginning on July 1, 1942. All quotas hereunder in any class of use, except the manufacturer of roasted peanuts in the shell, shall be computed by weight on a shelled basis.

SCHEDULE A

Class of use:	Permitted percentage
Manufacture of peanut butter.....	140
Manufacture of confections.....	100
Manufacture of bakery goods.....	100
Manufacture of other products containing peanuts.....	100
Manufacture of salted, fried, or otherwise cooked peanuts.....	100
Manufacture of roasted peanuts in the shell.....	100

(c) *Restrictions on the use and consumption of peanut butter*. Except as provided in paragraphs (d), (e), and (f) hereof, on or after October 1, 1943, no person shall, in any calendar quarter, use or consume peanut butter in any class of use listed in Schedule B below, in excess of a quantity equal to the percentage specified in such Schedule B of his quarterly use or consumption of peanut butter in such class of use during the corresponding calendar quarter of 1942. From the effective date of this order to October 1, 1943, no person shall use or consume peanut butter in any class of use listed in Schedule B below, in excess of a quantity equal to one-third of the percentage specified in such Schedule B of his quarterly use or consumption of peanut butter in such class of use during the calendar quarter beginning on July 1, 1942.

SCHEDULE B

Class of use:	Permitted percentage
Manufacture of confections.....	100
Manufacture of bakery goods.....	100
Manufacture of other products containing peanut butter.....	100

(d) *Exceptions*. (1) The restrictions contained in paragraph (b) hereof, shall not apply, in any calendar quarter, to any person whose use or consumption of peanuts, in such calendar quarter, is less than 1,000 pounds: *Provided*, That his use or consumption of peanuts and peanut butter in the aggregate in such calendar quarter is less than 1,000 pounds.

(2) The restrictions contained in paragraph (c) hereof, shall not apply, in any calendar quarter, to any person whose use or consumption of peanut butter, in such calendar quarter, is less than

1,000 pounds: *Provided*, That his use or consumption of peanut butter and peanuts in the aggregate in such calendar quarter is less than 1,000 pounds.

(e) *Unused quotas*. If, in any calendar quarter, any person does not use or consume in any class of use his quota of peanuts or peanut butter, he may use or consume the unused part of such quota in such class of use only in the following calendar quarter, and then only if he has first used or consumed his regular quota of peanuts or peanut butter for such class of use in that calendar quarter.

(f) *Ex-quota uses*. Nothing in paragraphs (b) and (c) hereof, shall restrict the use or consumption of peanuts or peanut butter in the manufacture of any product set forth in Schedule A of paragraph (b) of Schedule B of paragraph (c) hereof, which is to be delivered to:

(1) The Army, Navy, Marine Corps, or Coast Guard of the United States;

(2) The Food Distribution Administration, War Food Administration (including, but not restricted to, the Federal Surplus Commodities Corporation);

(3) The War Shipping Administration;

(4) The Veterans' Administration;

(5) Any contract school or ship operator, as defined in Food Distribution Regulation 2 (8 F.R. 7523);

(6) Any other instrumentality or agency designated by the War Food Administrator;

(7) Any person for use or consumption in the manufacture of any product to be delivered to any of the persons or agencies named in (1), (2), (3), (4), (5), and (6) of this paragraph (f); or

(8) Any wholesaler or jobber for delivery to any of the persons or agencies named in (1), (2), (3), (4), (5), or (6), of this paragraph (f): *Provided, however*, That the use or consumption of peanuts or peanut butter in the manufacture of any product to be delivered to the persons named in (7) or (8) of this paragraph (f) shall be exempt from the restrictions of paragraphs (b) and (c) hereof, only when supported by a certificate. The certificate shall state the name of the person supplying such peanuts or peanut butter; the kind and quantity of the final product containing the peanuts or peanut butter; the name of the person manufacturing the final product; the amount of peanuts or peanut butter required for the manufacture of the final product; and that the final

product is for delivery to one of the persons or agencies named in (1), (2), (3), (4), (5), or (6) of this paragraph (f). Where the final product is to be delivered to a contract school, the certificate shall also state that the product is to be used for the feeding of personnel of the Army, Navy, Marine Corps, or Coast Guard, pursuant to a contract with a government agency; and where the final product is to be delivered to a ship operator, the certificate shall state that the final product is to be used for feeding aboard vessels operated by such ship operator under a contract with the War Shipping Administration. The certificate shall be issued to the person having the prime contract with the persons or agencies named in (1), (2), (3), (4), (5), or (6) of this paragraph (f). Where the final product is to be delivered to an agency named in (1), (2), (3), or (4) of this paragraph (f), the certificate shall be issued by the Quartermaster General of the Army, the Chief of the Bureau of Supplies and Accounts or the Chief of Naval Personnel of the Navy, the Commandant of the United States Marines, the Director, the Administrator of the War Shipping Administration, the Director of the Veterans Administration, or the duly authorized representative of any of them. With respect to deliveries to contract schools or ship operators, the certificate shall be issued by the contract school or ship operator who is to accept delivery of the final product, and shall be approved by an officer of the Army, Navy, Marine Corps, or Coast Guard, when issued by a contract school, and by a duly authorized representative of the Administrator of the War Shipping Administration, when issued by a ship operator. Where the delivery of the final product is made to an instrumentality or agency designated by the War Food Administrator pursuant to (6) of this paragraph (f), the certificate shall be issued as the War Food Administrator shall direct. The prime contractor shall furnish a copy of such certificate, certified by him to be true and correct, to the person from whom he obtains the final product, and such certified copy shall be transmitted through trade channels to the person named thereon as being the supplier of the peanuts or peanut butter used or consumed in the manufacture of the final product. However, where a person named in (7) of this paragraph (f) delivers a final product to a person named in (8) of this paragraph (f), a certified copy of the certificate shall be furnished by the prime contractor for both the person who manufactures the final product and the supplier of the peanuts or peanut butter used in the manufacture of such product. Any person claiming that his use or consumption of peanuts or peanut butter is quota exempt under the provisions of this paragraph (f) shall retain the certified copy of the

certificate supporting such claim for exemption for at least two years after such use or consumption, or for such other period of time as the Director may hereafter direct. Peanuts or peanut butter used or consumed in compliance with the provisions of this paragraph (f) shall not be charged against any quota of any person so using or consuming such peanuts or peanut butter, and any peanuts or peanut butter used or consumed, in the calendar year 1942, in the manufacture of a product ultimately delivered to any of the persons or agencies named in (1), (2), (3), (4), (5), or (6) of this paragraph (f), shall not be included in determining any quota pursuant to paragraphs (b) and (c) hereof.

(g) *Records and reports.* (1) Every person who, in any calendar quarter in 1942, used or consumed 1,000 pounds or more of peanuts, or 1,000 pounds or more of peanut butter, or 1,000 pounds or more of peanuts and peanut butter in the aggregate, shall, not later than thirty days following the effective date of this order, report to the Chief, Fats and Oils Branch, Food Distribution Administration, War Food Administration, Washington 25, D. C., on Form FDO 78-1, or such other forms as the Director may prescribe, his use or consumption of peanuts during each calendar quarter of 1942, in the several classes of use listed under Schedule A of paragraph (b) hereof, and his use or consumption of peanut butter during each calendar quarter of 1942, in the several classes of use listed under Schedule B of paragraph (c) hereof. Report forms may be obtained from the Regional Offices of the Food Distribution Administration, War Food Administration (8 F.R. 9315, 11198).

(2) The Director shall be entitled to obtain such information from, and require such reports and keeping of such records by, any person, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this order.

(3) Every person subject to this order shall, for at least two years (or for such period of time as the Director may designate), maintain an accurate record of his transactions in peanuts or peanut butter.

(4) The record-keeping and reporting requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942. Subsequent record-keeping or reporting requirements will be subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(h) *Audits and inspections.* The Director shall be entitled to make such audit or inspection of the books, records and other writings, premises or stocks of peanuts or peanut butter of any person, and to make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or ad-

ministration of the provisions of this order.

(i) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him, may file a petition for relief in writing with the Director, addressed as follows: Director of Food Distribution, War Food Administration, Washington 25, D. C. Reference FDO 78. Such petition shall set forth all pertinent facts and the nature of the relief sought. The Administrator of this order shall then act upon the petition. In the event that the petitioner is dissatisfied with the action taken by the Administrator of this order, he may request a review of such action by the Director whose decision with respect to the relief sought shall be final.

(j) *Violations.* The War Food Administrator may, by suspension order, prohibit any person who violates any provision of this order from receiving, making any deliveries of, or using peanuts or peanut butter, or any other material subject to priority or allocation control by the War Food Administrator, and may recommend that any such persons be prohibited from receiving, making any deliveries of, or using materials subject to the priority or allocation control of other governmental agencies. In addition, any person who wilfully violates any provision of this order is guilty of a crime and may be prosecuted under any and all applicable laws. Further, civil action may be instituted to enforce any liability or duty created by, or to enjoin any violation of, any provision of this order.

(k) *Communications.* All reports required to be filed hereunder and all communications concerning this order shall, unless instructions to the contrary are issued by the Director, or otherwise provided herein, be addressed to the Director of Food Distribution, War Food Administration, Washington 25, D. C., Ref: FDO 78.

(l) *Delegation of authority.* The administration of this order and the powers vested in the War Food Administrator, insofar as such powers relate to the administration of this order, are hereby delegated to the Director. The Director is authorized to redelegate any or all of the authority vested in him by this order to any employee of the United States Department of Agriculture.

(m) *Territorial extent.* This order shall apply only to the forty-eight States of the United States and the District of Columbia.

(n) *Effective date.* This order shall become effective 12:01 a. m. E. W. T., September 1, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 31st day of August 1943.

MARVIN JONES,
War Food Administrator.

Press Release, Immediate:
Wednesday, September 1, 1943.

The War Food Administration said today that peanuts will be available beginning September 1, 1943, in the same quantities as in the calendar year 1942 for the making of edible peanut products, and for salting, frying and roasting.

Allocation of the anticipated supply also will provide sufficient peanuts for substantial increases in the production of peanut butter and peanut oil to meet war requirements. These allocations are provided in Food Distribution Order No. 78, effective September 1, 1943.

More peanut butter is needed for U. S. civilians to supplement other spreads which will assist in the consumption of larger amounts of bakery products, principally bread. Peanut butter is a high protein food and is used extensively as a bread spread. Peanut oil can be interchanged to advantage with other oils which are in shorter supply and, therefore, greater production is necessary

The estimated production of farmers' stock peanuts this year is 1,493,000 tons compared with a 1942 production of 1,103,000 tons. About 700,000 tons of the new crop will be used in the edible trade. If the supply is properly distributed, WFA explained, the 1943 crop will be sufficient to maintain the 1942 level for such uses as in candy and bakery products, and provide the needed increases in peanut butter—representing the largest edible use of peanuts on record. The balance, after deducting supplies for seed and other farm use, will be crushed for oil.

FDO No. 78 will be operated by calendar quarters, the first beginning October 1. After that date, peanuts and peanut butter used by manufacturers in making all products (except peanut butter itself) will be limited to 100 percent of the quantities used in the corresponding calendar quarter of 1942.

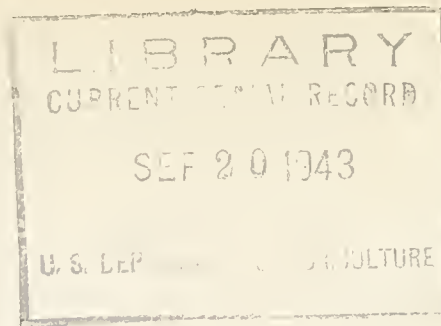
From September 1, 1943—the effective date of the order—to October 1, manufacturers of these products may use as much as one-third ($\frac{1}{3}$) of current

quarterly quota, based on use in the calendar quarter which began July 1, 1942.

The 100 and 140 percent limitations do not apply to users of less than a combined total of 1,000 pounds of peanuts and peanut butter in any calendar quarter.

The order also makes provision for the exemption of peanuts and peanut butter used in the manufacture of products for the Armed Forces (including Post Exchanges), the War Shipping Administration, the Veterans Administration, the Food Distribution Administration and other agencies designated by the War Food Administration.

Manufacturers are required by the order to report to WFA not later than October 1, 1943, their 1942 calendar-quarter use of peanuts and peanut butter in the making of various products, including peanut butter itself. These reports should be made to the Chief, Fats and Oils Branch, Food Distribution Administration, Washington 25, D. C., on Form FDA 78-1 available at all FDA regional offices.



FDO 78

AMDT. 1
SEPT. 13, 1943

WAR FOOD ADMINISTRATION

[FDO 78, Amdt. 1]

PART 1460—FATS AND OILS

CONSERVATION AND DISTRIBUTION OF PEANUTS AND PEANUT BUTTER

Food Distribution Order No. 78 (8 F.R. 12040), § 1460.29, issued by the War Food Administrator on August 31, 1943, is amended as follows:

1. By deleting the period which appears at the end of the phrase in paragraph (b) thereof, which reads "during

the calendar quarter beginning on July 1, 1942" and inserting, in lieu thereof, a comma, and inserting immediately after said comma the following: "or the percentage specified in such Schedule 'A' of his use or consumption of peanuts in such class of use during the month of September 1942, whichever is greater."

2. By deleting the period which appears at the end of the phrase in paragraph (c) thereof, which reads "during the calendar quarter beginning on July 1, 1942" and inserting, in lieu thereof,

a comma, and inserting immediately after said comma the following: "or the percentage specified in such Schedule 'B' of his use or consumption of peanut butter in such class of use during the month of September 1942, whichever is greater."

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 13th day of September 1943.

MARVIN JONES,
War Food Administrator.

Press Release Immediate:
Tuesday, September 14, 1943.

The War Food Administration has amended Food Distribution Order No. 78 to permit manufacturers of edible peanut products to use as many peanuts during the current month of September

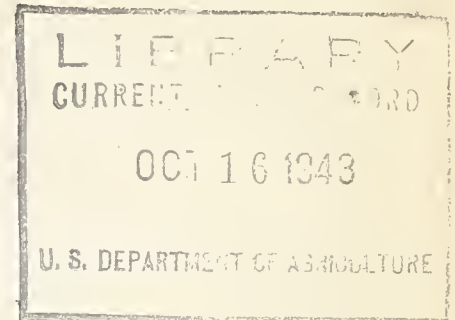
as they used in September 1942, in all products except peanut butter. Manufacturers of peanut butter are permitted to use 140 percent of the quantity used in September 1942.

FDO 78, which was effective September 1, provided that manufacturers use as their September base one-third of the

peanuts or peanut butter used in the calendar quarter beginning July 1, 1942.

The amended order now permits the September use to be based either on September 1942, or on the July 1–September 30, 1942 calendar quarter. Other provisions of the order are not affected.

FDO 78 Amended

PARTIAL SUSPENSION
SEPT. 30, 1943A
WAR FOOD ADMINISTRATION

[FDO 78, as Amended, Partial Suspension]

PART 1460—FATS AND OILS

CONSERVATION AND DISTRIBUTION OF
PEANUTS AND PEANUT BUTTER

Pursuant to the authority vested in the War Food Administrator, it is hereby ordered, as follows:

That the restrictions of paragraphs (b) and (c) of Food Distribution Order No. 73, as amended (8 F.R. 12040; 12303), § 1460.29 (b) and (c), shall not apply to the use or consumption, by any person, of peanuts or peanut butter when such use or consumption occurs, or has occurred, during the period beginning on

September 1, 1943 and ending on October 31, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 2337; E.O. 9334, 8 F.R. 5423)

Issued this 30th day of September 1943.

MARVIN JONES,
War Food Administrator.

Press Release Immediate:
Friday, October 1, 1943.

The War Food Administration said today that Food Distribution Order 73, which limits the use of peanut butter and peanuts for edible purposes, has been suspended during the period of September 1 to November 1, in so far as the

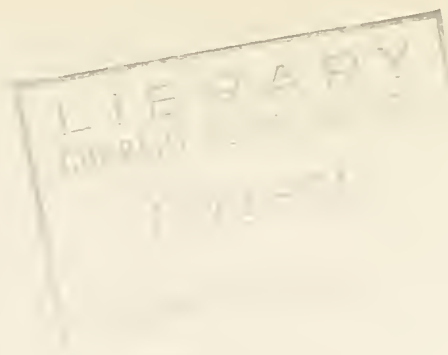
restrictions on use and consumption are concerned.

Suspension of the operation of quotas as established under the terms of the order is temporary. This action is considered necessary to permit the Food Distribution Administration to make a complete study of the information which will be submitted by the industry under

terms of the order. On the basis of such information, the FDA will review the present allocations to determine whether revisions of quotas may be advisable.

The industry must continue to file Form FDO 73-1 and other information requested by the Food Distribution Administration.

77337
Cap. 3



WAR FOOD ADMINISTRATION

[FDO 78, as Amended, Amdt. 1 of Partial Suspension]

PART 1460—FATS AND OILS

PEANUTS AND PEANUT BUTTER

Pursuant to the authority vested in the War Food Administrator, the Order (8 F.R. 13381) issued by the War Food Administrator on September 30, 1943,

which partially suspended the operation of Food Distribution Order 78, as amended, is hereby amended to read as follows:

That the restrictions of paragraphs (b) and (c) of Food Distribution Order 78, as amended (8 F.R. 12040; 12603), § 1460.29 (b) and (c), shall not apply to the use or consumption of peanuts

or peanut butter by any person, when such use or consumption occurs, or has occurred, on or after September 1, 1943.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423)

Issued this 21st day of October 1943.

MARVIN JONES,
War Food Administrator.

Press Release, Immediate:
Friday, October 22, 1943.

The War Food Administration has suspended indefinitely the provisions of Food Distribution Order Number 78, relating to the allocation, and use of peanuts and peanut butter.

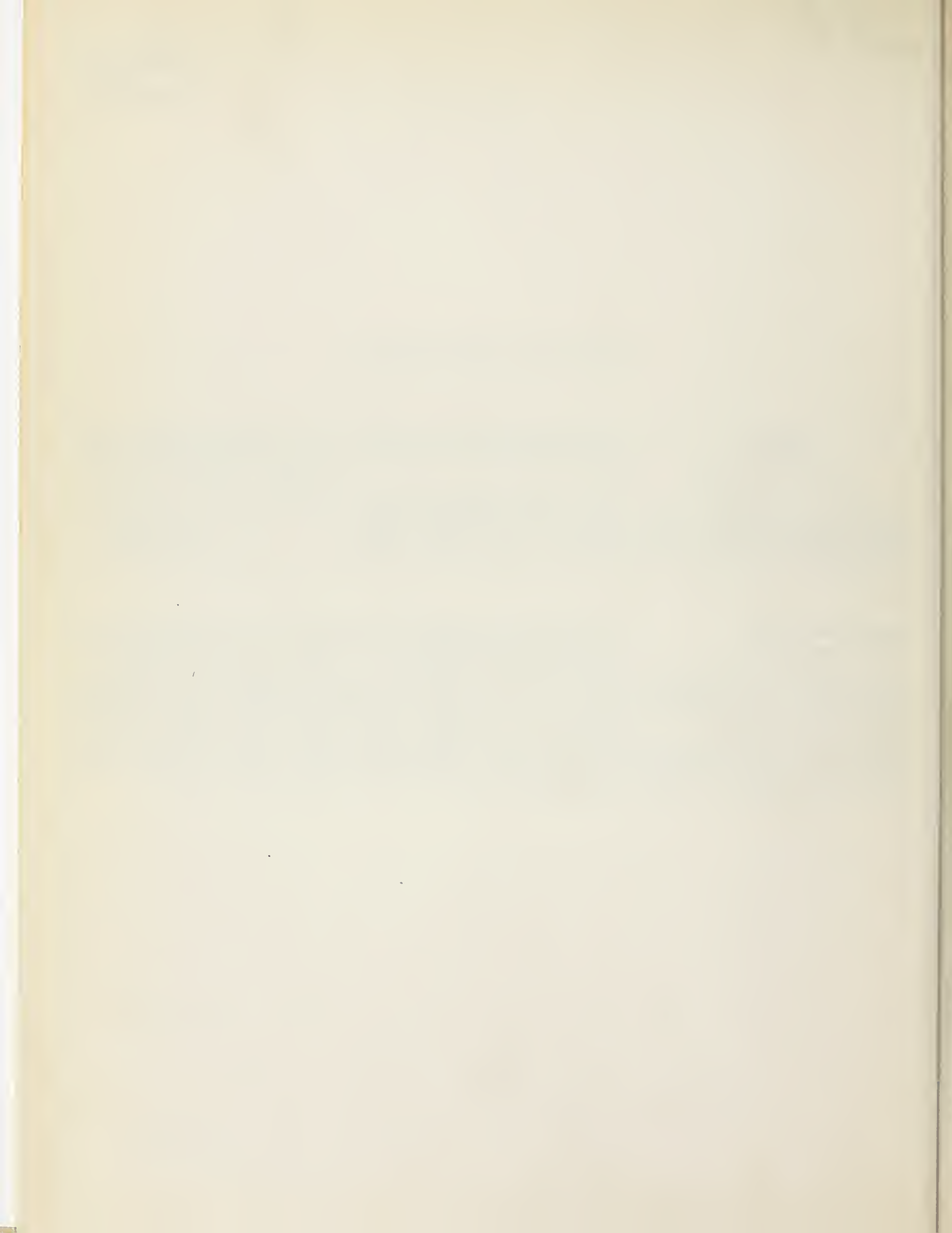
This action, following the temporary suspension of the order announced on October 1 deferring quota provisions of the order until November 1, is taken to

help industrial users of peanuts utilize to the maximum the 700,000 tons of peanuts allocated for edible purposes.

Food Distribution Administration officials state that consideration is being given to the revocation of FDO 78 and the issuance of a superseding order. This new order would require monthly reports from industrial users of peanuts, and, if they became necessary, provide for the establishment of quotas. The monthly reports would furnish needed

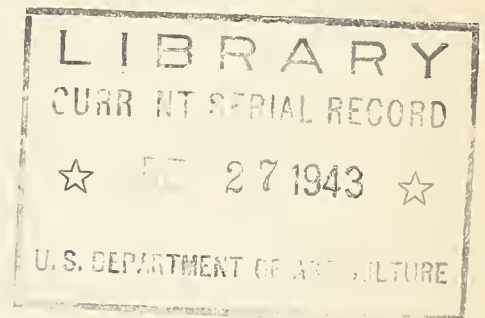
statistics upon which quotas on the consumption of peanuts by different types of users could be equitably established.

Today's action and the order now under consideration are in accordance with recommendations of the Peanut Food Industry Advisory Committee which met in Washington on October 12. It is anticipated that this action will aid in moving shelled and cleaned peanuts from the producing areas.



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FDO 78
TERMINATION
DEC. 8, 1943



WAR FOOD ADMINISTRATION

[FDO 78, Termination]

PART 1460—FATS AND OILS

**TERMINATION OF ORDER RELATING TO THE
CONSERVATION AND DISTRIBUTION OF PEANUTS
AND PEANUT BUTTER**

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and Executive Order No. 9322, dated March 26, 1943, as amended by Executive Order 9334, dated April 19, 1943, as further amended by Executive Order No. 9392, dated October 28, 1943, it is hereby ordered, as follows:

That Food Distribution Order No. 78, issued by the War Food Administrator on August 31, 1943, as amended (8 F.R. 12040, 12603, 13381, and 14375), relating to the conservation and distribution of peanuts and peanut butter, be and the same is hereby, terminated at 12:01 a. m., e. w. t., December 14, 1943.

With respect to violations of Food Distribution Order No. 78, as amended, or rights accrued, liabilities incurred, or appeals taken under such Food Distribution Order No. 78, as amended, prior to the effective time of the termination of said

order, said Food Distribution Order No. 78, as amended, shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 8th day of December 1943.

ASHLEY SELLERS,
Assistant War Food Administrator.

**War Food Administration,
Summary to FDO 78, as Amended.**

Food Distribution Order No. 78 relating to the allocation and use of peanuts and peanut butter has been terminated and a superseding order FDO 89 has been issued. The new order empowers the Director to prescribe quotas for peanuts and peanut butter. The new order

also authorizes the Director to require reports from industrial users.

It is contemplated that industrial users will be required to submit monthly reports to the Food Distribution Administration. Such reports will furnish needed information upon which quotas on the consumption of peanuts by different types of users, including peanut butter manufacturers, peanut salters,

peanut candy makers, bakers and roasters of peanuts, could be equitably established if it became necessary.

FDO 78 has been suspended since October 1 to help industrial users of peanuts utilize to the maximum the 700,000 tons of peanuts allocated for edible purposes by the Commodity Credit Corporation earlier this year.

